



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

August 31, 2023

BY ECF

Hon. Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street, Room 750
New York, New York 10007

**Re: *Virtu Financial, Inc. v. U.S. Securities and Exchange Commission*,
1:22-cv-10088-JHR (S.D.N.Y.)**

Dear Judge Parker:

Pursuant to the Court's April 17, 2023 Order, ECF No. 20, counsel for Plaintiff Virtu Financial, Inc. ("Virtu") and Defendant U.S. Securities and Exchange Commission ("SEC") respectfully submit this joint letter updating the Court on the SEC's release of non-exempt documents.

This is an action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") concerning a FOIA request submitted by Virtu to the SEC in June 2022, seeking documents and information regarding, among other things, the SEC's communications with certain third parties concerning retail stock order handling and execution. After Virtu agreed to narrow its initial FOIA request, the SEC agreed to process approximately 3,465 pages of documents at a rate of at least 500 pages per month, beginning in March 2023.

Pursuant to this agreement, the SEC has processed at least 500 pages of documents per month and has made six releases. In total, the SEC has released 1,754 pages of documents, withheld 81 pages of documents under certain exemptions, and withheld 742 pages of documents as nonresponsive. In addition, pursuant to the SEC's confidential treatment procedures, the SEC is currently consulting with third parties about the release of approximately 552 pages of documents. The SEC needs to complete the consultation process for those 552 pages and process an additional 335 pages before it is finished with its releases. The SEC anticipates making two more releases, in September and October 2023, however may need additional time to complete its releases in light of the procedures applicable to confidential treatment requests. *See* 17 C.F.R. § 200.83.

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Once the SEC completes its release of non-exempt documents, the parties intend to confer with each other about the status of the litigation and discuss any issues that need to be resolved before moving to dispositive motions. Counsel for the parties will notify the Court should any issues arise that require the Court's attention and are available should the Court have any questions.

Respectfully submitted,

/s/ Michael S. Bailey

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